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## TRANSMITTAL LETTER

			Attorney's Case No. 10437-69
Serial No. 10/777,772	Filing Date February 12, 2004	Examiner To be assigned	Group Art Unit 3743
Inventor: Fukunaga et al.			
Title of Invention: BREATHING CIRCUITS HAVING UNCONVENTIONAL RESPIRATORY CONDUITS AND SYSTEMS AND METHODS FOR OPTIMIZING UTILIZATION OF FRESH GASES			

MAIL STOP DD  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

Transmitted herewith is:

- ☒ A Petition To Make Special with supporting Declaration of Inventor;
- ☒ An Information Disclosure Statement, including Form PTO-1449 with seventy seven (77) listed documents attached;
- ☒ Return Postcard;

Respectfully submitted,

Daniel B. Schein, Ph. D., Esq.  
Registration No. 33,551  
Attorney for Applicant

P.O. Box 28403  
San Jose, California 95159

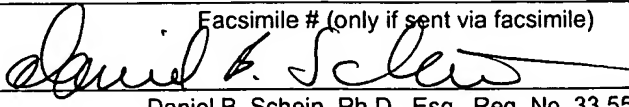
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: MAIL STOP DD, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 24 August 2004 Signature: Daniel B. Schein



**CERTIFICATE OF MAILING OR TRANSMISSION**

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Facsimile # (only if sent via facsimile)  
  
Daniel B. Schein, Ph.D., Esq., Reg. No. 33,551  
24 August 2004  
Date of Signature

Our Case No.: 10437-69

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

FUKUNAGA et al.

Serial No.: 10/777,772

Filing Date: February 12, 2004

For: BREATHING CIRCUITS HAVING  
UNCONVENTIONAL  
RESPIRATORY CONDUITS AND  
SYSTEMS AND METHODS FOR  
OPTIMIZING UTILIZATION OF  
FRESH GASES

Examiner: To be assigned

Group Art Unit No.: 3743

**INFORMATION DISCLOSURE STATEMENT**

Mail Stop DD  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56, it is respectfully requested that this Information Disclosure Statement be entered and the documents

listed on the attached Form PTO-1449 be considered by the Examiner and made of record. The documents are numbered so as to be consistent with the numbering of the documents of record in the application from which priority is claimed. Copies of the listed documents required by 37 C.F.R. § 1.98(a)(2) are enclosed for the convenience of the Examiner.

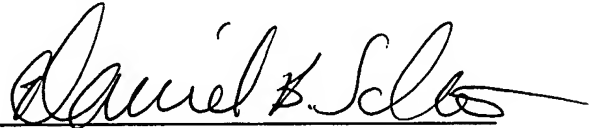
In accordance with 37 C.F.R. § 1.97(g),(h), this Information Disclosure Statement is not to be construed as an admission that the information cited is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b).

It is believed no fee is required in association with this submission.

Applicants respectfully request that the listed documents be made of record in the present case.

Respectfully submitted,

24 August 2004  
Date

  
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FORM PTO-1449	SERIAL NO. 10/777,772	CASE NO. 10437-69
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	FILING DATE February 12, 2004	GROUP ART UNIT 3743
(use several sheets if necessary)		APPLICANT(S): Fukunaga et al.

# REFERENCE DESIGNATION

# U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
	1	6,003,511	12/21/99	Fukunaga et al.	128/202.27	7/15/98
	2	5,983,896	11/16/99	Fukunaga et al.	128/207.14	2/4/98
	3	5,983,894	11/16/99	Fukunaga et al.	128/205.29	7/15/98
	4	5,983,891	11/16/99	Fukunaga	128/200.24	7/15/98
	5	5,901,705	5/11/99	Leagre		
	6	5,823,184	10/20/98	Gross	128/294.18	3/25/97
	7	5,778,872	7/14/98	Fukunaga et al.	128/202.27	11/18/96
	8	5,722,391	5/3/98	Rosenkoetter et al.		
	9	5,715,815	2/10/98	Lorenzen et al.		
	10	5,623,922	4/29/97	Smith	128/204.18	1/3/95
	11	5,546,930	08/20/96	Wikefeldt		
	12	5,404,873	04/11/95	Leagre et al.		
	13	5,377,670	1/3/95	Smith	128/204.17	6/19/92
	14	5,320,093	06/14/94	Raemer		
	15	5,284,160	02/08/94	Dryden		
	16	5,230,727	7/27/93	Pound et al.		
	17	5,195,527	3/23/93	Hicks		
	18	5,140,983	8/25/92	Jinotti		
	19	5,121,746	6/16/92	Sikora	128/203.12	5/29/91
	20	5,088,486	2/18/92	Jinotti		
	21	4,967,744	11/6/90	Chua	128/204.18	11/3/88
	22	4,938,210	7/3/90	Shene	128/203.12	4/25/89
	23	4,809,706	03/07/89	Watson et al.		
	24	4,657,532	04/14/87	Osterholm		
	25	4,637,384	01/20/87	Schroeder		
	26	4,621,634	11/11/86	Nowacki et al.		
	27	4,596,246	06/24/86	Lyall		
	28	4,463,755	8/7/84	Suzuki		
	29	4,462,397	07/31/84	Suzuki		
	30	4,391,271	07/05/83	Blanco		
	31	4,367,769	1/11/83	Bain	138/114	7/17/78
	32	4,265,235	05/05/81	Fukunaga		
	33	4,269,194	05/26/81	Rayburn et al.		
	34	4,232,667	11/11/80	Chalon et al.		
	35	4,188,946	02/19/80	Watson et al.		
	36	4,148,732	04/10/79	Burrow et al.		
	37	4,007,737	02/15/77	Paluch		
	38	3,856,051	12/24/74	Bain		
	39	3,713,440	01/30/73	Nicholes		
	40	3,556,097	01/19/71	Wallace		

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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**REFERENCE DESIGNATION U.S. PATENT DOCUMENTS**

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
	41	4,318,398	3/9/1982	Oetjen et al.	128/201.13	6/13/80
	70	5,398,675	03/21/95	Henkin et al.	128/203	10/14/92
	75	4,838,258	6/13/89	Dryden et al.		10/26/87
	76	6,079,410	6/27/00	Winefordner et al.		6/6/98
	77	6,129,082	10/10/00	Leagre		4/19/99

**FOREIGN PATENT DOCUMENTS**

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES NO
	42	93,941	8/10/23	Austria		
	43	0 462 412 A2	12/27/91	European Patent Office		
	44	1 270 946	4/19/72	United Kingdom	A61M 16/00	N/A
	45	WO 85/05277	12/05/85	Patent Cooperation Treaty		
	46	WO 91/19527	12/26/91	Patent Cooperation Treaty		
	47	EP 01 11 7999	12/6/01	European Patent Office - Search Report		
	71	PCT/US03/08292 Search Report	12/16/03	PCT		

EXAMINER INITIAL	OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)	
	48	Andrews, J. Jeffrey, <u>Inhaled Anesthetic Delivery Systems</u> , <i>Anesthesia</i> , Fourth Edition, pp. 185; and 203-207
	49	Byrick, R.J., et al., "Rebreathing and Co-Axial Circuits: A Comparison of the Bain and Mera F", <i>Canad. Anaesth. Soc. J.</i> , Vol. 28, pages 321-328 (1981)
	50	Dorsch, Jerry A., M.D., Dorsch, Susan E., M.D., <u>Understanding Anesthesia Equipment</u> , Chapter 7, The Circle Absorption System, pp. 201-202 and 220-221
	51	Forrest, P.R., "Defective Anaesthetic Breathing Circuit", <i>Canad. J. Anaesth.</i> , Vol. 34, pages 541-542 (1987)
	52	Goresky, G.V., "Bain Circuit Delivery Tube Obstructions", <i>Canad. J. Anaesth.</i> , Vol. 37, page 385 (1990)
	53	Hannallah, R., et al., "A Hazard Connected With Re-Use of the Bain's Circuit: A Case Report", <i>Canad. Anaesth. Soc. J.</i> , Vol. 21, pages 511-513 (1974)
	54	Heath, P.J., et al., "Modified Occlusion Tests for the Bain Breathing System", <i>Anaesthesia</i> , Vol. 46, pages 213-216 (1991)

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EXAMINER INITIAL	OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)	
	55	Jeretin, S. et al., "A Variable Deadspace Device for Use with the Engström Respirator", <i>Anesthesiology</i> , Vol. 34, pages 576-577 (1971)
	56	Okazaki, et al., "Effect of Carbon Dioxide (Hypocapnia and Hypercapnia) on Regional Myocardial Tissue Oxygen Tension in the Dog", <i>Anesthesiology</i> , Vol. 71, No. 3A, A486 (1989)
	57	Okazaki, et al., "Effect of Carbon Dioxide (Hypocapnia and Hypercapnia) on Regional Myocardial Tissue Oxygen Tension in Dogs with Coronary Stenosis", <i>Anesthesiology</i> , Vol. 73, No. 3A, A549 (1990)
	58	Okazaki, et al., "Effect of Carbon Dioxide (Hypocapnia and Hypercapnia) on Internal Mammary-Coronary Arterial Bypass Graft Blood Flow and Regional Myocardial Oxygen Tension in the Dog", <i>Anesthesiology</i> , Vol. 81, No. 3A, A717 (1994)
	59	Paterson, J.G., et al., "A Hazard Associated with Improper Connection of the Bain Breathing Circuit", <i>Canad. Anaesth. Soc. J.</i> , Vol. 22, pages 373-377 (1975)
	60	Pilbeam, Susan P., <i>Mechanical Ventilation</i> , 2 <sup>nd</sup> Ed., Mosby Year Book, St. Louis, Missouri, pages 285-286 (1992)
	61	Pontoppidan, H., et al., "Acute Respiratory Failure in the Adult", <i>The New England Journal of Medicine</i> , Vol. 287, pages 743-752 (1972)
	62	Robinson, S., et al., "Safety Check for the CPRAM Circuit", <i>Anesthesiology</i> , Vol. 59, pages 488-489 (1983)
	63	Scott, P.V., et al., "Variable Apparatus Deadspace", <i>Anaesthesia</i> , Vol. 46, No. 9, pages 1047-1049 (1991)
	64	Shapiro, B.A., et al., "Clinical Application of Respiratory Care", <i>Yearbook Medical Publishers, Inc.</i> , pages 351-352 ("Principles of Ventilator Maintenance") (1979)
	65	Stoyka, W., "The Reliability and Usefulness of the Suwa Nomogram in Patients in Respiratory Failure", <i>The Canadian Anaesthetists' Society Journal</i> , pages 119-128 (1970)
	66	Suwa, K., et al., "Change in PaCO <sub>2</sub> with mechanical dead space during artificial ventilation", <i>Journal of Applied Physiology</i> , Vol. 24, pages 556-561 (1968)
	67	Advertisement of the CPRAM™ Coaxial Circuits by Dryden Corporation, Indianapolis, Indiana
	68	Advertisement of the ACE Breathing Circuit™ by Meridian Medical Systems, Inc., Indianapolis, Indiana
	69	Fletcher, R., Scott, P. V., Jones, R.P., "The variable deadspace is not necessary," Correspondence reported in <i>Anaesthesia</i> , Vol. 47, No. 7, pages 623-624 (1992).
	72	Coetsee, J.F. et al., "Fresh gas flow is not the only determinant of volatile agent consumption...", <i>British Journal of Anaesthesia</i> , 88 (1) pp 46-55 (2002)
	73	Baum, J.A. et al., "Low-flow anaesthesia," <i>Anaesthesia</i> , Vol. 50 (Supplement), pp 37-44 (1995)
	74	Johansson, A. et al., "The Quotient End-tidal/Inspired Concentration of Sevoflurane in a Low-Flow System," <i>Journal of Clinical Anesthesia</i> , 14, pp 267-270 (2002)

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